

## PATENT

## REMARKS

Claims 1-11 are pending in the present application. In the above amendments, Applicant adds new claim 12 and traverses all rejections.

Applicant respectfully responds to this Office Action.

*Claim Rejections – 35 USC § 103*

**Claims 1-3 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hashem et al. (US 6,330,456) in view of Moon et al. (US 2004/0066772).**

Applicant's claims as amended are novel and patentable over Hashem and Moon. Hashem and Moon do not teach all features of Applicant's claims. For example, Applicant's claim 1 recites "a power control unit coupled to the link quality estimation unit, the power control unit operative to generate a second power control instruction in response to the link quality estimate, wherein the second power control instruction is used to adjust the transmit power of the common channel at a base station." Examiner characterizes Hashem col. 4, lines 1-35 as teaching "a power control unit coupled to the link quality estimation unit, the power control unit operative to generate a second power control instruction in response to the link quality estimate." Rather, Hashem teaches how a mobile station responds to power control commands from multiple base stations (please see Hashem col. 1, lines 20-25). Hashem col. 4, lines 1-35 simply teaches the weighing of multiple power control commands from multiple base stations in soft handoff. Hashem's Figure 2 shows multiple power control commands from multiple base stations, but no teaching of a power control unit to generate a second power control instruction for the base station.

Because Hashem and Moon fail to teach all elements of Applicant's claims, Claims 1-3 and 7 are patentable over Hashem and Moon.

**Claims 4-6, 8, 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knutsson et al. (WO 99/53630) in view of Chen et al. (US 2002/0105929).**

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All of Applicants claims are also patentable over Knuttson combined with Chen because there is no *prima facie* case of obviousness. Please see MPEP § 2143: "To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaack*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)."

Knuttson has no teaching of power control over a common channel. Rather, Knuttson teaches power control for a mobile station in "soft handover" (please see Knuttson page 1, lines 27-30). The power control bits shown in Knuttson FIG 2. are for a downlink data channel (please see Knuttson page 6, line 3). Power control on a downlink data channel is distinct from power control over a common power control channel. Chen teaches a common channel but there is no motivation in the references or to one of ordinary skill in the art to combine Chen with Knuttson. Knuttson teaches adjusting power control bits for the downlink when in "soft handover." **When not in "soft handover," Knuttson directly teaches away from adjusting power control bits (please see FIG. 3B element 315). Because, Knuttson teaches power control bits slotted with data bits (please see FIG. 2), there is no reason to separately adjust power control bits when not in "soft handover."** There is no motivation to combine such a structure with the common channel in Chen. Because there is no motivation to combine Knuttson and Chen, there is no *prima facie* case of obviousness, and Applicant's claims are patentable over Knuttson and Chen.

As highlighted above, there is no teaching, suggestion, or motivation in the prior art to combine the adjustment of power control bits in Knuttson with the common channel of Chen. In fact, Knuttson teaches away from the individual adjustment of power control bits in a channel but rather adjusts all power control bits in a given channel depending on whether the remote station is in macrodiversity or in response to the link quality (please see Knuttson abstract). Even when combined, Knuttson and Chen fail to teach adjustment of individual power control bits in a

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common channel. Because there is no motivation to combine Knuttson and Chen, and because Knuttson and Chen fail to teach all features of Applicant's claims, Applicant's claims are patentable over Knuttson and Chen.

***New Claims***

Applicant adds new claim 12, which is fully supported by Applicant's specification as originally filed. Please see, for example, paragraph [1022].

**PATENT****REQUEST FOR ALLOWANCE**

In view of the foregoing, Applicant submits that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Respectfully submitted,

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